

CRAVATH, SWAINE & MOORE LLP

WORLDWIDE PLAZA
825 EIGHTH AVENUE
NEW YORK, NY 10019-7475

TELEPHONE: +1-212-474-1000
FACSIMILE: +1-212-474-3700

CITYPOINT
ONE ROPEMAKER STREET
LONDON EC2Y 9HR
TELEPHONE: +44-20-7453-1000
FACSIMILE: +44-20-7860-1150

WRITER'S DIRECT DIAL NUMBER
+1-212-474-1142

WRITER'S EMAIL ADDRESS
gcheyne@cravath.com

JOHN W. WHITE
EVAN R. CHESLER
KRIS F. HEINZELMAN
PHILIP A. GELSTON
RICHARD W. CLARY
JAMES D. COOPER
STEPHEN L. GORDON
DANIEL L. MOSLEY
ROBERT H. BARON
C. ALLEN PARKER
SUSAN WEBSTER
DAVID MERCADO
ROWAN D. WILSON
CHRISTINE A. VARNEY
PETER T. BARBUR
SANDRA C. GOLDSTEIN
THOMAS G. RAFFERTY
MICHAEL S. GOLDMAN
RICHARD HALL
JULIE A. NORTH
ANDREW W. NEEDHAM
STEPHEN L. BURNS
KEITH R. HUMMEL
DAVID J. KAPPOS
DANIEL SLIFKIN

ROBERT I. TOWNSEND, III
WILLIAM J. WHELAN, III
PHILIP J. BOECKMAN
ROGER G. BROOKS
WILLIAM V. FOGG
FAIZA J. SAEED
RICHARD J. STARK
THOMAS E. DUNN
MARK I. GREENE
DAVID R. MARRIOTT
MICHAEL A. PASKIN
ANDREW J. PITTS
MICHAEL T. REYNOLDS
ANTONY L. RYAN
GEORGE E. ZOBITZ
GEORGE A. STEPHANAKIS
DARIN P. MCATEE
GARY A. BORNSTEIN
TIMOTHY G. CAMERON
KARIN A. DEMASI
LIZABETHANN R. EISEN
DAVID S. FINKELSTEIN
DAVID GREENWALD
RACHEL G. SKAISTIS
PAUL H. ZUMBRO

JOEL F. HEROLD
ERIC W. HILFERS
GEORGE F. SCHOEN
ERIK R. TAVZEL
CRAIG F. ARCELLA
TEENA-ANN V. SANKOORIKAL
ANDREW R. THOMPSON
DAMIEN R. ZOUBEK
LAUREN ANGELILLI
TATIANA LAPUSHCHIK
ERIC L. SCHIELE
ALYSSA K. CAPLES
JENNIFER S. CONWAY
MINH VAN NGO
KEVIN J. ORSINI
MATTHEW MORREALE
JOHN D. BURETTA
J. WESLEY EARNHARDT
YONATAN EVEN
BENJAMIN GRUENSTEIN
JOSEPH D. ZAVAGLIA
STEPHEN M. KESSING
LAUREN A. MOSKOWITZ
DAVID J. PERKINS
JOHNNY G. SKUMPIJA

J. LEONARD TETI, II
D. SCOTT BENNETT
TING S. CHEN
CHRISTOPHER K. FARGO
KENNETH C. HALCOM
DAVID M. STUART
JONATHAN L. DAVIS
AARON M. GRUBER
O. KEITH HALLAM, III
OMID H. NASAB
DAMARIS HERNÁNDEZ
JONATHAN J. KATZ

SPECIAL COUNSEL
SAMUEL C. BUTLER
GEORGE J. GILLESPIE, III

OF COUNSEL
MICHAEL L. SCHLER

October 4, 2016

Diaz v. Artus et al., No. 1:13-cv-00021-RJA-JJM (W.D.N.Y.)

Dear Judge McCarthy:

We write on behalf of Plaintiff Walter Diaz in connection with the Court's Order of September 30, 2016 (Dkt No. 162), concerning defense counsel's Motion to Withdraw (Dkt. No. 155). In that order, the Court ruled that "neither plaintiff nor defendants are entitled to the *in camera* Confidential Declarations of Christopher Boyd", which set forth the basis for the Motion to Withdraw.

In light of this decision, and as discussed in Plaintiff's September 22, 2016 letter to the Court, Plaintiff has no information on the facts and reasons underlying defense counsel's decision to withdraw. Plaintiff has sought such information repeatedly, to no effect. Specifically, Plaintiff has asked that at the very least, defense counsel be ordered to identify documents already produced—about which there can be no claim of confidentiality—that defense counsel has represented support his motion. To date, this request was not granted, nor was the reason for its denial (assuming it was denied, as appears to be the case) explained to Plaintiff.

Under these circumstances, Plaintiff lacks the ability to assess defense counsel's motion or exercise his right to oppose that motion effectively, should he deem such opposition appropriate. Having no basis on which to object or assent to defense counsel's Motion to Withdraw, Plaintiff will not file an objection on October 10, as contemplated by the Court's September 30, 2016 Order. Plaintiff simply notes his deep concern as to the delay that withdrawal might cause to his case.

As Plaintiff is eager to proceed expeditiously to trial, we ask that the Court require Defendants to retain new counsel promptly and that the Court set a firm date for a status conference to set a new Case Management Order as soon as practical.

We appreciate your consideration of this matter.

Respectfully

/s/ Greg C. Cheyne
Greg C. Cheyne

Hon. Jeremiah J. McCarthy
United States Magistrate Judge
Western District of New York
2 Niagara Square
Buffalo, New York 14202
McCarthy@nywd.uscourts.gov

VIA E-MAIL

Copy to:

Christopher L. Boyd, Esq.
Assistant Attorney General
Main Place Tower, Suite 300A
350 Main Street
Buffalo, NY 14202
Christopher.Boyd@ag.ny.gov

VIA E-MAIL